

REMARKS

I. Overview

These remarks are set forth in response to the Non-Final Office Action. As this amendment is timely filed within the three-month shortened statutory period.

Accordingly, neither a petition for an extension of time nor a petition fee is required. Presently, claims 1 through 19 are pending in the Patent Application. Claims 1, 11 and 18 are independent in nature. In the Non-Final Office Action, the Examiner has rejected claims 1 through 19 under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 5,930,512 to Knott et al. (Knott).

Notwithstanding, Applicant has cancelled claims 11 through 19 rendering many of these rejections moot. Specifically, in this Amendment, Applicant has cancelled claims 11 through 19 from further consideration in this application. Applicant is not conceding that the subject matter encompassed by claims 11 through 19 is not patentable. Claims 11 through 19 were cancelled in this Amendment solely to facilitate expeditious prosecution of the remaining claims. Applicant respectfully reserves the right to pursue additional claims, including the subject matter encompassed by claims 11 through 19, as presented prior to this Amendment in one or more continuing applications.

II. The Applicants' Invention

The Applicants' invention provides a control application and a database of media files, wherein each media file is provided with a tag corresponding to the play or run length of the media file. The control application can select and play one or more media

files, in whole or in part, in response to defined parameters. The invention can be used as part of an Interactive Voice Response (IVR) communications system. In an exemplary telephony application, callers are placed into a queue or "on-hold" upon connection and an expected waiting time is determined for the caller. The control application then selects one or more media files from the database to play or execute, wherein the media file(s) has a play or run length the same or slightly less than the expected waiting time.

III. Rejections Under 35 U.S.C. §§ 102(b) and 103(a)

A. Characterization of the Cited Art

Knott relates to a system and method for providing customer activities while in queue. The system and method allows for one or more customers to interact with one or more customer activities while waiting to speak with a live agent. During that time, the customers engage the customer activities while holding in a queue where the customer activities reduce the boredom, frustration, and perceived hold duration associated with holding to speak to a live agent. In this regard, the customers are offered one or more options of the customer activities to interact with and the system and method monitors the customers' selections and interaction with the customer activities. Subsequently, as agents become available, each customer is transferred to an agent along with information regarding the customer's interaction with a selected customer activity.

B. Traversal of the Rejections on the Art

Applicant's originally filed independent claim 1 recites as follows:

1. A method of adjusting media playtime to an expected waiting time between a first event and a second event, comprising the steps of:

establishing a communications link with a caller;

marking a first event by placing the caller on hold;

estimating a waiting time between the first event and a second event; and

playing a media file **having a length substantially equivalent to the waiting time.**

As originally filed, claim 1 makes clear that a media file is played that has a length substantially equivalent to the estimated waiting time. This feature integral to claim 1 is not present in Knott.

Specifically, in Knott, customers are permitted to engage in "activities" while holding in a queue. So much is provided by paragraph [0009] of Knott:

[0009] By contrast, the example embodiment described herein allows for providing customer activities to the customers while the customers are holding in a queue. The example embodiment allows for the combination of customer activities with a customer service center holding queue. **The customers engage in one or more customer activities that they consider useful or productive instead of passively holding to speak with the next available agent.** Because the customers are actively participating in an activity while holding instead of passively listening to easy-listening music, company messages, or advertisements, the concept of holding becomes less frustrating for the customers. Furthermore, the actual hold time appears to pass more quickly for the customers because the customers have activities to occupy their time while holding instead of just counting down the hold time. In addition, the customer activities increase the customers exposure to and use of voice portals and self-service applications. Therefore, the customer activities reduce the frustration and monotony of holding to speak with a live agent and also reduce the perceived duration of hold time thereby sustaining and possibly increasing customer satisfaction levels for holding customers.

Paragraph [0009], contrary to Examiner's argument, however, provides no indication that a media file is selected for playback that has a run length substantially equal to the estimated hold time.

In fact, the only connection in Knott between the activities selected for engagement and the estimated wait time is the assurance that a long enough wait time is estimated to permit the caller to engage in an activity. Specifically, in paragraph [0017] it is stated,

[0017] Once receiving device 42 determines the estimated hold time, at step 72 activity engine 38 determines if the estimated hold time is below a low threshold value which affects whether the customer is provided the opportunity of interacting with customer activities. **If the estimated hold time is below the low threshold, the customer will not be offered the option of any of the customer activities because the customer will not have an adequate amount of time to interact with the customer activities.**

However, at no time is the length of the activity itself selected to be substantially similar to the estimated wait time.

IV. Conclusion

The Applicants respectfully request the withdrawal of the rejections under 35 U.S.C. § 102(e) owing to the cancelled claims and the foregoing remarks. The Applicants request that the Examiner call the undersigned if clarification is needed on any matter within this Amendment, or if the Examiner believes a telephone interview would expedite the prosecution of the subject application to completion.

Respectfully submitted,

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